



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,352	05/24/2001	Masaru Sugano	010661	1126
38834 7590 12/03/2008 WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036				
EXAMINER HOSSAIN, FARZANA E				
ART UNIT		PAPER NUMBER		
2424				
MAIL DATE		DELIVERY MODE		
12/03/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 09/863,352	Applicant(s) SUGANO ET AL.
Examiner FARZANA E. HOSSAIN	Art Unit 2424

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 November 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See *Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 6-19, 21-23 and 25-35.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:

See *Continuation Sheet*.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/Chris Kelley/
Supervisory Patent Examiner, Art Unit 2424

Continuation of 3. NOTE: Further search and/or consideration would be required for new claims which explicitly deal with audio programs .

Continuation of 11. does NOT place the application in condition for allowance because: Regarding Claims 10 and 19, the applicant argues that the response to the applicant's remarks is difficult to understand (Page 16). The applicant argues that the Office Action asserts that Gagnon discloses slide components as channel data and that Terasawa teaches a slide comprising a segment (Page 16). The applicant argues that it is improper to combine Terasawa and Gagnon because the slide of Terasawa is a series of still frames and "the so called slide of Gagnon is irrelevant to the pending claims, since it does not disclose a "slide" as defined by the claims" (Pages 16-17). The applicant argues the slide of Gagnon is not a series of segment programs and therefore is irrelevant (Page 17). The applicant further argues that even if the slide of Gagnon was relevant it would not be obvious to combine with Terasawa (Page 17) and that Gagnon teaches duplicative elements of Terasawa (Page 17). The applicant argues that the modification of Terasawa would be limited to preventing the guide data from disappearing after a channel is tuned and whether the still frame of the slide would still remain on the screen (Page 18). The applicant argues that Gagnon does not disclose a bidirectional link or transition but instead discloses a series of unidirectional links (Page 18). The applicant also states that he KSR contain no reference to the claim language or the cited art.

In response to the arguments, the examiner respectfully disagrees. Terasawa discloses a slide or data stream comprising slide components or segments or frames of corresponding programs to select corresponding programs to view (Figure 4, Figure 5, Column 6, lines 23-34, Figure 36, Figure 40). Terasawa discloses a slide that is part of an EPG and allows a user to select programming. Terasawa discloses the slide component or single frames or reduced temporal segment (Figure 4, Figure 36, Figure 40).

Gagnon is analogous art which also uses a slide as part of an EPG to select programming (Figure 2A). Different interfaces for EPGs are well known in the prior art for the purpose of making it easier and more convenient to viewers to use an EPG to select program. Therefore, the two slides can be combined for an aesthetically pleasing presentation to the user. Also if the Gagnon is teaching duplicative elements to Terasawa then Gagnon's invention would be analogous to Terasawa's invention. Gagnon may not meet the exact example of the applicant's invention, nevertheless Gagnon discloses that a user can go transition between a program and the slide as the slide is still being displayed when the user selects a program which is two opposite directions one of a slide to another program or back to the same program (Figure 2A, Column 3, lines 13-21). Therefore, this is not unidirectional transitions. Gagnon further discloses allowing user to scroll up and down the slide (Figure 2A). The examiner agrees with the statement that a slide component in Gagnon is not a segment. Gagnon discloses slide components as channel data (Figure 4). Terasawa discloses wherein the description of the slide components includes a temporal description temporally describing each slide component including the time of the program and its corresponding original audio/video program and allowing for a transition between the multiple original audio/video programs and the slide components or the title bar includes information about the program and transition to more information of the programs and selecting the slide bar using the remote control (Figure 4, Column 6, lines 23-34, Figures 5-7). Gagnon discloses the textual description of the slide components includes a temporal description describing each slide component and its corresponding original audio/video program and allowing a bidirectional transition between the multiple original audio/video programs and the slide components or between each slide component a channel and video on the slider referencing multiple audio/video programs and the description including time to select a program from the slider or displaying the program and the viewing the slider to choose another program (Figure 2a, Figure 2b, Column 20, lines 34-67, Column 21, lines 1-5, Column 10, lines 54-55).

As for the request of the applicant to cited art or claim language via KSR. In KSR International Co. v. Teleflex Inc., the Court found that the claim would have been obvious in the prior art and one skilled in the art could have been combined as claimed by known methods with no change in their respective functions, and the combination would have yielded predicated results to one of ordinary skill in the art at the time of the invention. Therefore, the known elements of selection of programs via a slide in EPG with no change to the Terasawa or Gagnon inventions would yield predictable results to modify Terasawa to include to the textual description of the slide components includes a description about a bidirectional transition between the multiple original audio/video programs and the slide components (Column 20, lines 34-67, Column 21, lines 1-5) as taught by Gagnon for a more aesthetically pleasing user interface.

Regarding Claims 28 and 29, the applicant argues that the Office Action that discloses the claim limitation as the second clause of the claims is less clear. The applicant argues that Terasawa does not disclose the limitations particular the original program to the beginning of the next slide component (Page 19).

In response to the applicant, based on the claim limitations, Terasawa discloses the temporal description allows for a transition from each slide component to a beginning of each corresponding original audio/video program of which each slide component is a reduced temporal segment (Figure 4) as it is known in the art if all programs start at 7:00 then a selection of a program at 7:00 from the slide component will transition to the beginning of each corresponding audio video program for the benefit of a user watching a program from the beginning. The Terasawa invention deals with EPG functionality which allows a user to transition to the next slide component of the slide when the user moves sequentially via the slide (Figure 4, Figure 5-7, Figure 8). Gagnon discloses the slider remains in display while watching the selected program (Column 20, lines 34-67, Column 21, lines 1-5, Figure 2A, Figure 2B).